

**NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
MEETING MINUTES OF
December 1, 1999**

1. General

A. Call to Order and Roll Call. The Board of Public Accountancy was called to order at 8:36 a.m. on Wednesday, December 1, 1999 with Chair William Gaines, Jr. presiding. The meeting was held at the office of the Board at 140 N. 8th Street, Suite 290, Lincoln, Nebraska.

The roll was called with the following members present: William Gaines, Nina Kavich, Dean Graf, Luke Aldy, Richard Hoiekvam, George Klein, William Nuckolls and Kathleen Smith. Also present were personnel members Annette Harmon and Gerald Batliner.

B. Approval of meeting agenda for December 1, 1999. Moved by Smith, seconded by Aldy, to approve the agenda for the December 1, 1999 meeting as written. On roll call vote, all members present voted aye. Motion number 1 carried.

C. Approval of the minutes of the September 16, 1999 Board meeting. Moved by Smith, seconded by Klein, to approve the minutes as written. On roll call vote, all members present voted aye. Motion number 2 carried.

2. Consent Agenda

Approval of Consent Agenda by Roll Call Vote. Moved by Smith, seconded by Kavich, to approve the Consent Agenda. On roll call vote, all members present voted aye. Motion number 3 carried.

A. Published Notice of Meeting. Pursuant to call and published notice, the notice of meeting is herewith attached.

B. Review of Board Budget Status Report. The Board reviewed the October 31, 1999 Budget Status Report.

C. Approval of September and October 1999 disbursements. The Board reviewed and approved the September and October 1999 disbursements.

D. Approval of Surrendered Certificates and Inactive-Retired Status. The Board approved the voluntary surrender of the CPA certificate of Stephan P. Hoffman and the classification of Inactive-Retired for Ronald F. Ueberrhein.

E. Office Management Report. The Board reviewed a report on permits and registrations issued as of November 12, 1999. Prior year's statistics were also reviewed for comparison.

3. Formal Hearing: Lee A. Johnson

Mr. Lee A. Johnson indicated that he would enter into a Consent Order with the Board in lieu of a hearing. The provisions of the Order include a revocation of his CPA certificate. Mr. Johnson is required to physically return the certificate within ten days before the Consent Order will be accepted by the Board. Moved by Klein, with the Committee's recommendation, to approve the

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revised consent order and to have the Chair sign it once Mr. Johnson's CPA certificate is received. On roll call vote, all members present voted aye. Motion number 4 carried.

4. Formal Hearing: Gerard Forget (Complaint #99-07)

At 9:10 a.m. a formal hearing was held with Gerard Forget as the Respondent. Robert T. Gruit represented the Board and R. Kent Radke acted as the independent hearing officer. Mr. Forget was present but was not represented by Counsel. Board members present and participating in the hearing were William Gaines, Nina Kavich, Dean Graf, Luke Aldy, Richard Hoiekvam, George Klein, William Nuckolls and Kathleen Smith.

CLOSED MEETING

Closed Meeting. Moved by Hoiekvam, seconded by Smith, that the Board go into closed session at 10:37 a.m. for the purpose of enforcement. On roll call vote, all members present voted aye. Motion number 5 carried.

Return to Open Meeting. Moved by Smith, seconded by Aldy, that the Board return to open session at 11:43 a.m. On roll call vote, all members present voted aye. Motion number 6 carried.

4. Formal Hearing: Gerard Forget (Complaint #99-07)

The Board directed staff to request that Kent Radke prepare Findings of Fact and Conclusions of Law on this hearing for the Board's consideration.

5. Report of Enforcement of Professional Conduct Committee

A. Complaint Consent Agenda.

1. Complaint Status Log. The Board reviewed the Complaint Status Log, consisting of open and monitored complaints. No action necessary.
2. 99-10 Failure to Respond Timely to Client and Board. Motion to close the complaint.
3. 99-11 Litigation – Closed. Motion to close the complaint.
4. 99-16 Refusal to Release Client Records. Motion to close the complaint.

Moved by Klein, with the Committee's recommendation, to approve the Complaint Consent Agenda. On roll call vote, all members present voted aye. Motion number 7 carried.

B. Request of A.G. for Injunction Against Robert Chisholm. The Attorney General's office has filed a Petition for Injunction against Robert Chisholm. Mr. Chisholm's attorney has indicated that they will obtain a statement from the telephone directory company stating that the listings have been changed. To date, no information has been received. Moved by Klein, with

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the Committee's recommendation, that staff direct the Attorney General's office to request a hearing date on the Petition for an Injunction. On roll call vote, all members present voted aye. Motion number 8 carried.

C. 99-08 Holding out as CPA by Unlicensed Individual. An individual was using his father's name (who was a CPA) to continue his business after his father's death on October 28, 1999. A complaint was received in our office about this unlicensed individual. Staff investigated, communicated with Respondent about the matter and confirmed that he had removed all signage, changed the answering machine message, etc. The complaint had also indicated, however, that this individual had used his father's signature stamp on income tax returns after his father's death. After further investigation, it was determined that the individual had not used his father's name in the signing of the tax return named in the complaint. Moved by Klein, with the Committee's recommendation, to close the complaint. On roll call vote, all members present voted aye. Motion number 9 carried.

D. 99-18 Incompetence in Performance of Audit by CPA Firm. The Complainant alleged that a CPA firm licensed in Nebraska (office in Kansas City) was incompetent in the performance of the Complainant's audit, which resulted in excessive fees. The CPA firm would then not release the audit report until the Complainant paid the additional fees. The CPA firm's registered office is in Des Moines, with a licensed CPA from that office being the responsible CPA for that firm.

Moved by Klein, with the Committee's recommendation, to write the firm to clarify the need for registration of the firm and licensure; and to write the complainant that it appears that all records have been provided and that, based upon the facts presented, it appears to be a billing dispute in which the Board does not become involved. On roll call vote, all members present voted aye. Motion number 10 carried.

E. 99-19 Failure to Provide Corporate Records to Shareholder. A corporate shareholder has personally requested that copies of corporate records be returned to her or to her accountant. The CPA has not turned over any records on the basis that this shareholder is not entitled to them. He has indicated that the original records were released to another shareholder.

Moved by Klein, with the Committee's recommendation, to write the complainant stating that the corporate attorney is the proper source through which to obtain the requested records. On roll call vote, all members present voted aye. Motion number 11 carried.

F. Procedure on Phone Book Yellow Page Advertisements. Moved by Klein, with the Committee's recommendation to adopt the procedure of requiring the CPA/unlicensed individual to sign a "Telephone Listing Change" form, send the required form letter to the Board office so that staff can send it by certified mail (return receipt requested) to the telephone directory(s) publisher. The form directs the publisher to remove all advertisements and listings using the CPA designation that are inappropriate. On roll call vote, all members present voted aye. Motion number 12 carried.

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G. Flowchart of Enforcement Procedures. The Board reviewed and approved a revised flowchart detailing the procedures to be used in enforcement matters.

6. Report of Continuing Education Committee

A. Ratification of staff program evaluations since last meeting. Member Gaines gave a brief report on the Committee's telephone conference call. Moved by Hoiekvam, with the Committee's recommendation, to approve the recommendations of administrative personnel for courses requesting continuing education credit, correcting 99-350 to read "Retirement Planning" sponsored by Continuing Academics for Accountants. On roll call vote, all members present voted aye. Motion number 13 carried.

B. Reconsideration of Program Denials. Moved by Hoiekvam, with the Committee's recommendation, that 99-227 "Regional Partnership Program," 99-182 "Global Markets Seminar Series," and the AICPA Exam Panel be denied; that 99-192 "1999 Airport Finance Symposium" and 99-323 "Telephony 101" each be approved for 8 credit hours. On roll call vote, all members present voted aye, with the exception of Member Graf who abstained. Motion number 14 carried.

C. Revised Information Sheet/Letter to New CPA Certificate Holders on CPE Requirements. Moved by Hoiekvam, with the Committee's recommendation, to make the recommended changes to the form letter and to adopt the use of the form letter and flowchart (with form numbers for the applications). On roll call vote, all members present voted aye. Motion number 15 carried.

D. CPE Guidelines. Moved by Hoiekvam, with the Committee's recommendation, that the revised Guidelines be adopted with the proposed revisions to the cover page and pages 1 and 4. On roll call vote, all members present voted aye. Motion number 16 carried.

7. Report of Examination & Licensing Committee

A. Ratification of initial permits to practice issued; certificates issued. Moved by Aldy, with the Committee's recommendation, to ratify the initial permits to practice and certificates issued by examination and reciprocity. On roll call vote, all members present voted aye. Member Klein was momentarily absent. Motion number 17 carried.

B. Report on Initial Applications for the November 1999 CPA Examination. The Board reviewed a summary of applications that were submitted by initial applicants, including those that were denied sitting. No action necessary.

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C. Approval of Application Forms for Use for May 2000 examination. The Board reviewed proposed applications for an initial applicant to apply to sit for the CPA exam, for a re-exam applicant, and for someone to sit for the exam by transferring their grades to Nebraska. Moved by Aldy, with the Committee's recommendation, to approve the use of the applications for the May 2000 CPA Examination with proposed revisions. On roll call vote, all members present voted aye. Motion number 18 carried.

D. Procedures for Future Examinations. Moved by Aldy, with the Committee's recommendation, that the Board approve the policy for future CPA examinations to discontinue use of admission cards, to post passing exam candidates on the Board's web page, and to accept initial applications and re-exam applications – for those not sitting for the previous exam – on and after January 2 and July 1, for the May and November examinations respectively. On roll call vote, all members present voted aye. Motion number 19 carried.

The Board also discussed a policy of disallowing smoking during the CPA examination. Moved by Smith, seconded by Nuckolls, to disallow smoking during all future CPA examinations. On roll call vote, Members Aldy, Klein and Hoiekvam voted nay. Members Smith, Kavich, Graf, Nuckolls and Gaines voted aye. Motion number 20 carried.

E. Locations for May and November 2000 Examinations. Several Board members and staff have reviewed locations for use for the examinations in the year 2000. The Abbott Sports Complex in Lincoln will be offering a contract for use for both exams. Moved by Aldy, with the Committee's recommendation, to approve entering into a contract with the Abbott Sports Complex for the May and November 2000 examinations. On roll call vote, all members present voted aye. Motion number 21 carried.

F. Request for CPA Certificate; Misdemeanor on Record. The Board reviewed an application for a CPA certificate wherein the applicant had been convicted of a misdemeanor. Moved by Aldy, with the Committee's recommendation, to approve the issuance of a CPA certificate for this applicant. On roll call vote, all members present voted aye. Motion number 22 carried.

G. Report on 7/1/99 Non-Renewals (No Action Taken). Several individuals and firms did not renew their active permits as of July 1, 1999. Staff has tried to communicate with these individuals and firms to determine if they are practicing public accountancy. No Board action is necessary at this time.

H. Checklists for Licensing Firm Entities. This item has been deferred to the next Board meeting.

I. Application(s) for Reinstatement to Active Permit. There were no applications as of the date of the Board meeting for reinstatement. No action necessary.

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J. Flowchart of Procedures. The Board reviewed and approved proposed flowcharts of procedures for certification, examination and licensure.

8. Report of Educational Advisory Committee

A. Committee Meeting Report. The Educational Advisory Committee met on October 25, 1999. The Board reviewed the Committee's report and recommendations. Moved by Kavich, seconded by Smith, to accept the Committee's report and adopt the following recommendations: 1) to adopt standards relating to foreign credentials, 2) to adopt a procedure to only allow accounting prefixes for the accounting subject requirements (require evidence of how non-business prefix courses meet subject requirement in business section), 3) communicate in writing with Nebraska schools to update listing of courses that meet subject requirements, and 4) communicate with the College of St. Mary in response to their letter. On roll call vote, all members present voted aye. Motion number 23 carried.

B. Proposed Revised Rules. The rules on the 150-hour education requirement will be reviewed in conjunction with the Legislative Task Force work, and rule changes would come at a later date. Member Kathy Smith will be working with Tom Purcell to make recommendations and possible draft wording in this area for legislation.

C. Appointment of New Members. Moved by Kavich, with the Committee's recommendation, to appoint Matthew McNamara, Michelle Thornburg and Paul Shoemaker to the Board's Educational Advisory Committee for a term of one year, effective January 1, 2000. On roll call vote, all members present voted aye. Motion number 24 carried.

9. QEP Committee

A. Report of Lack of Response to Type 4 Rating. There was only one practice unit who failed to respond to the Board's Type 4 rating letter within the required time frame. At the September Board meeting, it was determined that the practitioner would need to provide evidence of the medical circumstance he says prevented him from responding timely with a written response to the Summary of Deficiencies and Comments. The practitioner sent a copy of an Emergency Room admission record and a written response disagreeing with the Type 4 rating.

Members Hoiekvam and Graf reviewed the materials and recommended that the Type 4 rating be changed to a Type 3. This rating will still require that the practice unit submit a follow-up report for review in 2000. It was determined that there was no need for an informal hearing at this time.

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Moved by Hoiekvam, with the Committee's recommendation, that the Board accept the revised rating for this practice unit and the corresponding requirements. On roll call vote, all members present voted aye. Motion number 25 carried.

B. Updated Procedures. The QEP procedures will be updated on the basis of policies the Board has adopted over the last couple of years, and will be distributed to the Board and QEP Committee at the January meeting.

10. Report of Legislation and Rules Committee

A. Report on NSCPA Legislative Task Force. The Executive Director reported on the October 4, 1999 meeting of the Legislative Task Force and the consensus of the group on certain issues. Two people were assigned to each topic to bring forward ideas or even wording for consideration in the draft legislation. Member Smith reported on her meeting with Dr. Tom Purcell on education and indicated that it was their finding that the law (minus some driftwood) was sufficient but that the rules must be revised at a later date. Member Hoiekvam reported on some of the work he has been doing on NASBA's Alternative Practice Structure Task Force. In particular they are dealing with independence issues, and firm registration/make-up/ownership issues. Member Kavich reported on some of her discussion with Jim Greisch on the experience requirement, including offshoots of experience like continuing professional education.

11. Report of Executive Director

A. Computer Program Update. The Executive Director reported on the progress of the new computer program developed by IMS. There are several reports remaining that need to be installed and there are also a few "bugs" remaining. Any new programming will fall outside of the scope of the current Charter with IMS and would result in new charges to the Board. Any such needs would be discussed with the Board at a future time. Some data entry still remains to correct any deficiencies with the data conversion process. Ms. Harmon also reported that the installation of a K-56 line for access to the State's mainframe had been delayed by miscommunications within the Department of Communications and that IMS had failed to indicate there would be an additional \$450 monthly charge by their agency for the connection. As of Tuesday, November 30, the install date was set for Friday, December 3, 1999.

B. Personnel Update. The Executive Director reported that she had interviewed several more candidates for the Staff Assistant position and would be making a hiring decision by the end of the week.

In appreciation of her time and effort as Chair of the Board for 1998-1999, Ms. Harmon awarded Member Smith a special plaque of commemoration.

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12. New Business

A. Future Meeting Dates. The next Board meeting was rescheduled for January 7, 2000 in Lincoln, Nebraska. The April meeting was moved to Monday, March 27, 2000.

B. Resolution for Retiring Board Member, R. David Hunter. Moved by Smith, seconded by Aldy, to adopt the resolution of gratitude for service by retiring Board Member, R. David Hunter. On roll call vote, all members present voted aye. Motion number 26 carried.

C. Policy on Various Travel Expenses. The Board discussed the expenditure of an extra night's stay when attending conferences for the Board at a national level. For example, if the cost of reduced airfare (with a Saturday night stay) would offset the cost of an additional night's stay or if an individual could not get home by a reasonable hour, then the expense of that night's stay at a hotel would be reimbursed.

Moved by Hoiekvam, seconded by Aldy, to approve the expenses to attend the NASBA Annual Meeting as submitted, including the Saturday night stay-over, of Board members and the Executive Director. On roll call vote, Members Aldy, Hoiekvam, Nuckolls and Graf voted aye, and Members Smith, Kavich, Gaines and Klein voted nay. Motion number 27 failed.

Moved by Aldy, seconded by Hoiekvam, in lieu of anyone having expenses paid for the Saturday night stay-over, that each Board member be paid the per diem for Thursday, Friday and Saturday. On roll call vote, Member Aldy voted aye; Members Smith, Kavich, Graf, Klein, Hoiekvam, Nuckolls and Gaines voted nay. Motion number 28 failed.

Moved by Hoiekvam, seconded by Nuckolls, that the Board would reimburse the Saturday night expenses for those Board members who did not submit their costs. On roll call vote, Members Aldy, Hoiekvam, Nuckolls, Graf and Gaines voted aye; Members Smith, Kavich and Klein voted nay. Motion number 29 carried.

The other policy items will be discussed at a later date.

D. Role of Board Officers. The Board discussed the role of officers, the role of the Board Chair, and the current duties – written or unwritten – of the officers. This item is for informational purposes only.

E. Office Manual Revisions. This item will be deferred to the January meeting.

F. Policy Manual Revisions. This item will be deferred to the January meeting.

G. Priorities for Board for 1999-2000. Chair Gaines would like to see the meetings more streamlined so that the business could be finished in one day, with more telephone communication and more work done by the Committees before the meeting. Also, within the next 12 months, a disciplinary database to assist in enforcement issues would be developed and

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usable. Perhaps next summer the Board could also do a visioning project or strategic planning process. Jan Mumm will be asked to speak to the Board at the January meeting about where the AICPA's visioning project is and any "fallout" in the terms of proposed law and rule changes.

H. NASBA. 1. Focus Questions. The Board delegated answering of NASBA's latest focus questions to the Chair and Executive Director. The responses will then be submitted to the Central Regional Director, Phil Gleason.

H. NASBA. 2. Nominee for Technical Panel. The Board has been given the opportunity to submit the name of a volunteer to serve on NASBA's Technical Panel. The Board determined that they would forward the name of William Gaines, Jr. as their state's representative.

H. NASBA. 3. Attendance of Personnel at Executive Director's Conference and CPE Conference. Moved by Aldy, seconded by Smith, to approve the expenses for attendance of the Executive Director and appropriate personnel at the Executive Director's conference and the CPE Conference in 2000. On roll call vote, all members present voted aye. Motion number 30 carried.

13. Adjournment

It was moved by Smith, seconded by Aldy, that the Board adjourn at 5:00 p.m. On roll call vote, all members present voted aye. Motion number 31 carried.

Submitted by,

Nina B. Kavich, CPA
Secretary